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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,640	03/29/2004	Chip E. Thomson	THMC:015US	4964
32425	7590	05/17/2006	EXAMINER	
FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. SUITE 2400 AUSTIN, TX 78701			SANDY, ROBERT JOHN	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,640

Applicant(s)

THOMSON ET AL.

Examiner

Robert J. Sandy

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 12,13,18-20,32 and 46 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-31 is/are allowed.
- 6) ☒ Claim(s) 1,3,4,9-11,14,15,33,34 and 47 is/are rejected.
- 7) ☒ Claim(s) 2,5-8,16,17 and 35-45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

THIS final ACTION IS RESPONSIVE TO THE AMENDMENT FILED 03 March 2006.

- Claims 1-47 are pending.
- Claims 1, 14, 21 and 33 were amended.
- Claims 12, 13, 18-20, 32, and 46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected species.

Response to Arguments

Applicant's arguments filed 28 February 2006 (cert. of mail date) as they pertain to the applied prior art reference to Demarest, Jr. (U. S. Patent No. 4,735,438) have been considered persuasive in view of the amendment to the claims 1, 14, 21, and 33, but are moot in view of the new ground(s) of rejection, which has been necessitated by applicant's amendment.

Applicant's remarks as they pertain to Lorber ('263) regarding claims 33 and 47 have been considered, but are moot in view of the new ground(s) of rejection, which has been necessitated by applicant's amendment.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 9, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Lorber (U. S. Patent No. 4,802,263). Lorber ('263) discloses a clip having two ends (at 14) and a leverage bump (portion of lateral face 18 in contact with plate 28, as shown in Fig. 5); and an arm (levers 22) pivotally coupled to each end; where one of the arms contacts (see Fig. 5) the leverage bump when the clip is opened, and at least one of the arm sis a non-wire frame (i.e., "plastic"; col. 1, line 42);

(concerning claim 3) the clip has two leverage bumps (two portions of lateral face 18 with each portion of lateral face 18 in contact with plate 28, as shown in Fig. 5), and each arm contacts (see Fig. 7) a leverage bump when the clip is opened;

(concerning claim 4) each leverage bump includes two outer portions (34) and a middle portion (2), and the two outer portions of each leverage bump protrude more outwardly from the clip than the middle portion;

(concerning claim 9) each arm has a widest portion (measured between leg 23) and the clip has a widest portion (measured between pins 17), and the widest portions of the arms and the clip have substantially the same width;

(concerning claim 10) the widest portion of each arm is positioned near the widest portion of the clip; and

(concerning claim 11) each arm includes an indentation (27).

Claims 14, 15, 33, 34 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Duncan (U. S. Patent No. 590,094). Duncan ('094) discloses a clip (see Figs. 1 and 2) having a receiving portion and a holding portion, the receiving portion (22) being defined by a single arch (A), and the holding portion including two ends (A^2); and an arm (D) pivotally coupled to each end; and

(concerning claim 15) the clip has two leverage bumps (where levers D each contact clip body A , as shown in Fig. 2), and each arm contacts a leverage bump when the clip is opened.

(concerning claim 33) the clip is not substantially triangular in shape when in an empty closed position, the clip having two ends (at A^2); and an arm (D) pivotally coupled to each end; the arms being bowed toward each other when the arms are in an empty closed position and the device is view from a top profile, the device being sized to hold one or more of paper, cards and a wallet;

(concerning claim 34) each end having a hinge (D') to which an arm is pivotally coupled; and

(concerning claim 47) each arm being a non-wire frame arm.

Allowable Subject Matter

Claims 2, 5-8, 16, 17, 35-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In view of the amendments to claim 21, Claims 21-31 are allowed over the prior art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J. Sandy
Primary Examiner
Art Unit 3677


ROBERT J. SANDY
PRIMARY EXAMINER